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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/674,779	. <u></u> •	01/03/2001	Jean-Louis Ruelle	BM45311 5330		
25308	7590	05/23/2002				
DECHERT	DECHERT				EXAMINER	
ATTN: ALL 4000 BELL	ATLANT	IC TOWER		BASKAR, PADMAVATHI		
1717 ARCH PHILADELF				ART UNIT PAPER NUMBER  1645		
FIREADELI	IIIA, I A	17103				
				DATE MAILED: 05/23/2002	1	

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

		Application No.	Applicant(s)				
		09/674,779	RUELLE, JEAN-LOUIS				
	Office Action Summary	Examiner	Art Unit				
		Padmavathi v Baskar	1645				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address							
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.							
- If the - If NO - Failu - Any r earne	period for reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute, eply received by the Office later than three months after the mailing ad patent term adjustment. See 37 CFR 1.704(b).	ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	the mailing date of this communication.  O (35 U.S.C. § 133).				
Status	Decreasive to communication(s) filed on						
1)□	Responsive to communication(s) filed on	· is action is non-final.					
2a)□	This action is <b>FINAL</b> . 2b)⊠ This Since this application is in condition for allowa		occoution as to the merits is				
3)	closed in accordance with the practice under	Ex parte Quayle, 1935 C.D. 11, 4	53 O.G. 213.				
Dispositi	ion of Claims						
•	Claim(s) <u>27-61</u> is/are pending in the application		•				
	4a) Of the above claim(s) is/are withdrawn from consideration.						
5)	Claim(s) is/are allowed.						
6)□	Claim(s) is/are rejected.						
7)	Claim(s) is/are objected to.						
	Claim(s) <u>27-61</u> are subject to restriction and/or	election requirement.					
	ion Papers	_					
• —	The specification is objected to by the Examine		minor				
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
11) The proposed drawing correction filed on is: a) □ approved b) □ disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.							
12) The oath or declaration is objected to by the Examiner.							
Priority under 35 U.S.C. §§ 119 and 120							
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
a) ☐ All b) ☐ Some * c) ☐ None of:							
1. Certified copies of the priority documents have been received.							
	2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.							
14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).							
a) ☐ The translation of the foreign language provisional application has been received. 15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.							
Attachmen	rt(s)	<u> </u>					
2) Notic	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal	y (PTO-413) Paper No(s) Patent Application (PTO-152)				
I S Datent and T	rademark Office						

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## RESTRICTION

- 1. Applicant's amendment filed on 6/11/00 has been entered. Claims 1-26 have been canceled. Claims 27-61 have been entered, Claims 27-61 are pending in the application.
- Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 27- 39, 53-54 and 61 drawn to polypeptide, method of making and a method of use as a vaccine. Further election of invention required.

Group II, claims 40-52 and 60 drawn to DNA, vector and host cell. Further election of invention required.

Group III, claim 55 drawn to an antibody. Further election of invention required.

Group IV, claim 56 drawn to a method for inducing an immune response using a polypeptide. Further election of invention required.

Group V, claim 57 drawn to a method for diagnosing M.catarrhalis infection using peptide or antibody. Further election of invention required.

Group VI, claim 58 drawn to a method for inducing immune response using polynucleotide. Further election of invention required.

Group VII, claim 59 drawn to a method for the treatment of M.catarrhalis infection using antibody. Further election of invention required.

The inventions listed as Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

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Group I is directed to a polypeptide, method for producing the polypeptide and a method of use as vaccine which is the first product and first method of using the product. The special technical feature is the polypeptide, which is made up of amino acids. Groups II-III are drawn to structurally different products such as nucleic acids and antibodies which do not require each other for their practice and do not share the same or a corresponding technical feature. The Group IV-VII inventions are drawn to methods having different goals, method steps and starting materials, which do not require each other for their practice and do not share the same or a corresponding technical feature. Note that PCT Rule 13 does not provide for multiple products or methods within a single application. Since the special technical feature of the Group I invention is not present in the Group II-VII claims, and the special technical features of the Group II-VII inventions are not present in the Group I claims, unity of invention is lacking.

## DISTINCT INVENTIONS

3. This application contains claims directed to more than one invention in each group.

These inventions are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1 as different sequences are considered as unique, different and distinct inventions.

The inventions are as follows:

SEQ.ID.NOS. 1, 2, 3, 4, 5, 6, 7, 8, 13 and 14.

The inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the inventions lack the same or corresponding special technical features for the following reasons: Sequences listed as SEQ.ID.NOS 1-8, 13 and 14 are different to each other and lack the same or corresponding special technical features

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- 4. Applicant is required, in reply to this action, to elect a group and one sequence and identify the SEQ.ID.NO to which the claims shall be restricted. The reply must also identify the claims readable on the elected invention, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.
- 5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Padmavathi v Baskar whose telephone number is (703) 308-8886. The examiner can normally be reached on M-F (6:30A.M-4: 00 P.M.) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (703) 308-3909. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

P. Baskar Ph.D.

5/22/02

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SUPERVISORY PATENT EXAMINED
TECHNOLOGY CENTER 160